

JOSEPH MCINERNEY,
Plaintiff,

v

SAN FRANCISCO HOUSING AUTHORITY
et al,

Defendant.

No C-03-1358 VRW
ORDER

[The complaint] appears grounded in a conspiracy to violate civil rights, and deprivation of civil rights. But the complaint is vague and conclusory, and fails to identify [SFHA's] role in the conspiracy or deprivation. Indeed, McInerney cites numerous statutes and amendments, * * * [y]et he fails to describe

1 how [SFHA] conspired to violate the statutes
2 and amendments, or how it deprived him of any
 civil rights provided under each.

3 Id at 4-5. The court disagrees that the complaint fails to allege
4 how SFHA conspired; after all, SFHA was allegedly in charge of
5 plaintiff's housing at the time he was evicted. But the complaint
6 does indeed lack allegations establishing how the alleged
7 conspiracy violated any of the numerous statutory and
8 constitutional provisions cited by plaintiff.

9 Plaintiff's opposition does little to respond
10 specifically to this contention. He argues that the allegations of
11 the complaint "disclose a pattern of wilful misconduct with the
12 intent to vex and annoy and oppress plaintiff implying collusion
13 with the objectives of defendant's unlawful eviction of plaintiff."
14 Pl Opp (Doc #25) at 2-3. While the allegations of the complaint
15 may establish that SFHA "vex[ed] and annoy[ed] and oppress[ed]"
16 plaintiff, these are not violations of the law. To the extent
17 plaintiff seeks to re-litigate the merits of his eviction, the
18 allegations of the complaint itself signal that such a challenge
19 would be barred by res judicata. To the extent plaintiff
20 challenges judicial acts in the eviction proceeding, such a
21 challenge would be barred by judicial immunity or the Rooker-
22 Feldman doctrine. Beyond this, there is nothing in the complaint
23 to establish violations of the statutory and constitutional
24 provisions that plaintiff cites.

25 Accordingly, SFHA's motion to dismiss (Doc #25) is
26 GRANTED. Plaintiff may file an amended complaint not later than
27 May 31, 2005.

28 One other matter remains: In its order dated February

1 23, 2005 (Doc #21) extending the time under FRCP 4(m) for plaintiff
2 to serve his complaint, the court admonished plaintiff that a
3 failure to serve any defendant by April 15, 2005, would result in
4 dismissal without prejudice of the complaint as to that defendant.
5 It appears that only SFHA and the City and County of San Francisco
6 have been served. Accordingly, the complaint is DISMISSED without
7 prejudice as to all other defendants.

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9 IT IS SO ORDERED.

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11 _____/s/

12 VAUGHN R WALKER

13 United States District Chief Judge
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